

JS 44 (Rev. 12/07, NJ 5/08)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

AMANDA FOWLER

DEFENDANTS

NCO FINANCIAL SYSTEMS, INC.

(b) County of Residence of First Listed Plaintiff

County of Residence of First Listed Defendant

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

Craig Thor Kimmel, Esquire
Kimmel & Silverman, P.C.
30 E. Butler Pike
Ambler, PA 19002
(215) 540-8888

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deposition <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General Habeas Corpus <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. Section 1692

Brief description of cause:

Fair Debt Collection Practices Act

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S)

(See instructions):

JUDGE

DOCKET NUMBER

Explanation:

10-22-K

DATE

SIGNATURE OF ATTORNEY OF RECORD

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 1913 Highway 74, Wesley, Arkansas, 72773

Address of Defendant: 507 Prudential Road, Norsham, PA 19044

Place of Accident, Incident or Transaction: _____
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes ☐ No ☒

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts

2. ☐ FELA

3. ☐ Jones Act-Personal Injury

4. ☐ Antitrust

5. ☐ Patent

6. ☐ Labor-Management Relations

7. ☐ Civil Rights

8. ☐ Habeas Corpus

9. ☐ Securities Act(s) Cases

10. ☐ Social Security Review Cases

11. ☒ All other Federal Question Cases

(Please specify)

15 U.S.C § 1692

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts

2. ☐ Airplane Personal Injury

3. ☐ Assault, Defamation

4. ☐ Marine Personal Injury

5. ☐ Motor Vehicle Personal Injury

6. ☐ Other Personal Injury (Please specify)

7. ☐ Products Liability

8. ☐ Products Liability — Asbestos

9. ☐ All other Diversity Cases

(Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Craig Ther Kimmel, counsel of record do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: 10-22-10

Craig Ther Kimmel
Attorney-at-Law

57100

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 10-22-10

Craig Ther Kimmel
Attorney-at-Law

57100

Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Amanda Fowler

CIVIL ACTION

v.

NCO Financial Systems, Inc.

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ☒

Date

10-22-10

Attorney-at-law

Craig Ther Kimmel

Attorney for

Amanda Fowler

215-540-8888

Telephone

877-788-2864

FAX Number

Kimmel@creditlaw.com

E-Mail Address

1 **UNITED STATES DISTRICT COURT**
2 **FOR THE**
3 **EASTERN DISTRICT OF PENNSYLVANIA**

4 AMANDA FOWLER,
5 Plaintiff

6 v.

7 NCO FINANCIAL SYSTEMS, INC.,
8 Defendant

Case No.:

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

(Unlawful Debt Collection Practices)

9
10 **COMPLAINT**

11 AMANDA FOWLER ("Plaintiff"), by her attorneys, KIMMEL &
12 SILVERMAN, P.C., allege the following against NCO FINANCIAL SYSTEMS,
13 INC. ("Defendant"):

14
15 **INTRODUCTION**

16 1. Plaintiff's Complaint is based on the Fair Debt Collection Practices
17 Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA").

18
19 **JURISDICTION AND VENUE**

20 2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d),
21 which states that such actions may be brought and heard before "any appropriate
22 United States district court without regard to the amount in controversy," and 28
23 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising
24 under the laws of the United States.
25

1 3. Defendant conducts business and has an office in the State of
2 Pennsylvania and therefore, personal jurisdiction is established.

3
4 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(1).

5 5. Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and
6 2202.

7
8 **PARTIES**

9 6. Plaintiff is a natural person residing at 1913 Highway 74, Wesley,
10 Arkansas, 72773.

11 7. Plaintiff is a "consumer" as that term is defined by 15 U.S.C. §
12 1692a(3).

13 8. Defendant is a national debt collection company with corporate
14 headquarters located at 507 Prudential Road in Horsham, Pennsylvania.

15 9. Defendant is a "debt collector" as that term is defined by 15 U.S.C. §
16 1692a(6) and repeatedly contacted Plaintiffs in an attempt to collect a debt.

17 10. Defendant acted through its agents, employees, officers, members,
18 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,
19 representatives, and insurers.

20
21
22 **PRELIMINARY STATEMENT**

23 11. The Fair Debt Collection Practices Act ("FDCPA") is a
24 comprehensive statute, which prohibits a catalog of activities in connection with
25

1 the collection of debts by third parties. See 15 U.S.C. § 1692 *et seq.* The FDCPA
2 imposes civil liability on any person or entity that violates its provisions, and
3 establishes general standards of debt collector conduct, defines abuse, and provides
4 for specific consumer rights. 15 U.S.C. § 1692k. The operative provisions of the
5 FDCPA declare certain rights to be provided to or claimed by debtors, forbid
6 deceitful and misleading practices, prohibit harassing and abusive tactics, and
7 proscribe unfair or unconscionable conduct, both generally and in a specific list of
8 disapproved practices.

11 12. In particular, the FDCPA broadly enumerates several practices
12 considered contrary to its stated purpose, and forbids debt collectors from taking
13 such action. The substantive heart of the FDCPA lies in three broad prohibitions.
14 First, a “debt collector may not engage in any conduct the natural consequence of
15 which is to harass, oppress, or abuse any person in connection with the collection
16 of a debt.” 15 U.S.C. § 1692d. Second, a “debt collector may not use any false,
17 deceptive, or misleading representation or means in connection with the collection
18 of any debt.” 15 U.S.C. § 1692e. And third, a “debt collector may not use unfair
19 or unconscionable means to collect or attempt to collect any debt.” 15 U.S.C. §
20 1692f. The FDCPA is designed to protect consumers from unscrupulous
21 collectors, whether or not there exists a valid debt, broadly prohibits unfair or
22 unconscionable collection methods, conduct which harasses, oppresses or abuses
23
24
25

1 any debtor, and any false, deceptive or misleading statements in connection with
2 the collection of a debt.

3
4 13. In enacting the FDCPA, the United States Congress found that
5 “[t]here is abundant evidence of the use of abusive, deceptive, and unfair debt
6 collection practices by many debt collectors,” which “contribute to the number of
7 personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of
8 individual privacy.” 15 U.S.C. § 1692a. Congress additionally found existing
9 laws and procedures for redressing debt collection injuries to be inadequate to
10 protect consumers. 15 U.S.C. § 1692b.

11
12 14. Congress enacted the FDCPA to regulate the collection of consumer
13 debts by debt collectors. The express purposes of the FDCPA are to “eliminate
14 abusive debt collection practices by debt collectors, to insure that debt collectors
15 who refrain from using abusive debt collection practices are not competitively
16 disadvantaged, and to promote consistent State action to protect consumers against
17 debt collection abuses.” 15 U.S.C. § 1692e.

20 **FACTUAL ALLEGATIONS**

21 15. At all relevant times, Defendant was attempting to collect an alleged
22 consumer debt from Plaintiff on behalf of Chase Bank.

23
24 16. The alleged debt at issue arose out of transactions, which were
25 primarily for personal, family, or household purposes.

1 17. Beginning on April 2, 2010 and continuing until June 8, 2010,
2 Defendant, its agents, employees, and servants engaged in debt collection
3 activities seeking payment from Plaintiff.
4

5 18. Defendant, its employees and servants harassed Plaintiff by making
6 continuous calls to her cell phone number from the following phone numbers;
7 (800) 448-9570, (866) 506-2667, (888) 207-3081. The undersigned has confirmed
8 that these numbers belong to the Defendant.
9

10 19. Defendant and its employees identified as "Chris Lion" and "Dana
11 Hazel", harassed Plaintiff in an attempt to collect the alleged debt.
12

13 20. "Chris Lion" has left numerous messages on Plaintiff's answering
14 machine stating, "this confidential and important message is meant solely for
15 Amanda Fowler". *Please see attached electronic recording.*

16 21. The message further indicated, "I (Chris Lion) am calling from NCO
17 Financial Systems Inc., a debt collection company. This is an attempt to collect a
18 debt and any information obtained will be used for that purpose, please call me
19 back today at (800) 899-4332 ex. 4384 and reference id. C82468". *Please see*
20 *attached electronic recording.*
21

22 22. In addition on June 3, 2010, "Chris Lion" called Plaintiff's parents
23 home and left the same above message on their answering machine. *Please see*
24 *attached electronic recording.*
25

1 23. Defendant has also placed messages on the Plaintiff's parent's
2 answering machine after the initial June 3, 2010 message.

3
4 24. Plaintiff's relationship with her parents has now become strained as a
5 result of Defendant's collection efforts in the form of voice messages as her
6 parents are upset at being contacted b a debt collector.

7 25. Plaintiff disputes owing this debt.

8
9 26. On June 8, 2010, more the two (2) months after Defendant made
10 initial contact, Plaintiff received a letter from Defendant offering to settle the
11 account. A true and correct copy of the June 8, 2010 letter is attached hereto as
12 Exhibit "A".

13
14 27. Defendant's letter states; "we are offering you a settlement at this
15 time, which will allow you to pay 50 percent of the current balance due. This offer
16 may expire without notice. Before making payment, please confirm with one of
17 our representatives that this offer has not expired." See Exhibit "A."

18
19 28. While representing that there is 50 percent discount by accepting the
20 offer, the deception lies in the non-disclosure of the "current balance due". The
21 only way for Plaintiff to find out the correct amount that is owed is if she contacts
22 the Defendant.

23
24 29. This makes Plaintiff feel compelled to call when she otherwise would
25 not be comfortable doing so. It could also be viewed as a threat for those who

1 would otherwise be intimidated by speaking by telephone.

2 30. Defendant's letter also indicates that Plaintiff may make payment of
3 the debt to an online website: www.ncofinancial.com, via a registration code. See
4 Exhibit "A."

5
6 31. There is no indication in Defendant's letter and thus it is unknown
7 whether using the site owned by the Defendant would result in any fees or
8 additional costs to Plaintiff. If the answer is yes, then there is a deceptive element
9 in suggesting the use of the site without full disclosure.
10

11 32. If in fact Defendant obtains a "convenience fee" or any other
12 financial remuneration from the transaction, it must disclose that information
13 within the letter to avoid that deceptive element.
14

15 33. At no time does Defendant's letter inform Plaintiff of her rights under
16 the FDCPA, specifically the right to dispute and / or request verification of the
17 alleged debt. See Exhibit "A."
18

19 34. Upon information and belief, Defendant sought to collect a debt from
20 Plaintiff despite the fact that Defendant had no documentation or other knowledge
21 of its validity.
22
23
24
25

CONSTRUCTION OF APPLICABLE LAW

35. The FDCPA is a strict liability statute. Taylor v. Perrin, Landry, deLaunay & Durand, 103 F.3d 1232 (5th Cir. 1997). “Because the Act imposes strict liability, a consumer need not show intentional conduct by the debt collector to be entitled to damages.” Russell v. Equifax A.R.S., 74 F. 3d 30 (2d Cir. 1996); see also Gearing v. Check Brokerage Corp., 233 F.3d 469 (7th Cir. 2000) (holding unintentional misrepresentation of debt collector’s legal status violated FDCPA); Clomon v. Jackson, 988 F. 2d 1314 (2d Cir. 1993).

36. The FDCPA is a remedial statute, and therefore must be construed liberally in favor of the debtor. Sprinkle v. SB&C Ltd., 472 F. Supp. 2d 1235 (W.D. Wash. 2006). The remedial nature of the FDCPA requires that courts interpret it liberally. Clark v. Capital Credit & Collection Services, Inc., 460 F. 3d 1162 (9th Cir. 2006). “Because the FDCPA, like the Truth in Lending Act (TILA) 15 U.S.C §1601 *et seq.*, is a remedial statute, it should be construed liberally in favor of the consumer.” Johnson v. Riddle, 305 F. 3d 1107 (10th Cir. 2002).

37. The FDCPA is to be interpreted in accordance with the “least sophisticated” consumer standard. See Jeter v. Credit Bureau, Inc., 760 F.2d 1168 (11th Cir. 1985); Graziano v. Harrison, 950 F. 2d 107 (3rd Cir. 1991); Swanson v. Southern Oregon Credit Service, Inc., 869 F.2d 1222 (9th Cir. 1988). The FDCPA was not “made for the protection of experts, but for the public - that vast multitude

1 which includes the ignorant, the unthinking, and the credulous, and the fact that a
 2 false statement may be obviously false to those who are trained and experienced
 3 does not change its character, nor take away its power to deceive others less
 4 experienced.” Id. The least sophisticated consumer standard serves a dual
 5 purpose in that it ensures protection of all consumers, even naive and trusting,
 6 against deceptive collection practices, and protects collectors against liability for
 7 bizarre or idiosyncratic interpretations of collection notices. Clomon, 988 F. 2d at
 8 1318.

11 **COUNT I**
 12 **DEFENDANT VIOLATED THE**
 13 **FAIR DEBT COLLECTION PRACTICES ACT**

14 38. In its actions to collect a disputed debt, Defendant violated the
 15 FDCPA in one or more of the following ways:

- 16 a. Defendant violated of the FDCPA generally;
- 17 b. Defendant violated § 1692b of the FDCPA by communicating
 18 with any person other than the consumer that consumer owed a
 19 debt, specifically her parents;
- 20 c. Defendant violated § 1692d of the FDCPA by harassing Plaintiff
 21 with voice messages in connection with the collection of an
 22 alleged debt;
- 23 d. Defendant violated § 1692d(5) of the FDCPA by causing a
 24
 25

1 telephone to ring repeatedly or continuously with the intent to
2 annoy, abuse, and harass Plaintiff;

3 e. Defendant violated § 1692e of the FDCPA by using false,
4 deceptive, or misleading representations or means in connection
5 with the collection of a debt;

6 f. Defendant violated § 1692f of the FDCPA by using unfair and
7 unconscionable means with Plaintiff to collect or attempt to collect
8 a debt;

9 g. Defendant violated § 1692g(a) of the FDCPA by failing to send
10 written notification, within 5 days after its initial communication,
11 advising of Plaintiff's rights to dispute the debt or request
12 verification of the debt;

13 h. By acting in an otherwise deceptive, unfair and unconscionable
14 manner and failing to comply with the FDCPA.

15
16
17
18
19
20 WHEREFORE, Plaintiff, AMANDA FOWLER, respectfully pray for a
21 judgment as follows:

- 22
23 a. All actual compensatory damages suffered pursuant to 15
24 U.S.C. § 1692k(a)(1);
25 b. Statutory damages of \$1,000.00 for each violation of the
FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);


- 1 c. All reasonable attorneys' fees, witness fees, court costs and
2 other litigation costs incurred by Plaintiff pursuant to 15 U.S.C.
3 § 1693k(a)(3); and
4 d. Any other relief deemed appropriate by this Honorable Court.
5

6 **DEMAND FOR JURY TRIAL**

7 Pursuant to Civil Rule 38, Plaintiff hereby demands a trial by jury on all
8 issues in this action, and any issues relating to the amount of attorneys' fees and
9 litigation costs to be awarded should Plaintiff prevail on any of her claims in this
10 action.
11

12
13 RESPECTFULLY SUBMITTED,
14 KIMMEL & SILVERMAN, P.C.

15 Date: 10-22-10

16 By: 
17 Craig Thor Kimmel
18 Attorney ID # 57100
19 Kimmel & Silverman, P.C.
20 30 E. Butler Pike
21 Ambler, PA 19002
22 Phone: (215) 540-8888
23 Fax: (215) 540-8817
24 Email: kimmel@creditlaw.com
25

05/22/2010 17:18 14797502221

SPRINGDALE FOOT SPEC

PAGE 03

PO BOX 15630
DEPT 81
WILMINGTON, DE 19850



Calls to or from this company may be monitored
or recorded for quality assurance.

NCO FINANCIAL SYSTEMS INC

507 Prudential Road, Horsham, PA 19044

1-888-899-4332

OFFICE HOURS:

8AM-9PM MON THRU THURSDAY

8AM-5PM FRIDAY

8AM-12PM SATURDAY

Jun 8, 2010



C82468
AMANDA S FOWLER
1913 HIGHWAY 74 APT F203
WESLEY AR 72773-9000

Creditor
CHASE BANK USA, N.A.

Creditor's Acct #
5401693023211393

Requesting
PAST DUE BALANCE

Current Balance
1325.77

Dear AMANDA S FOWLER:

We are offering you a settlement at this time, which will allow you to pay 50% of the current balance due. This offer may expire without notice. Before making payment, please confirm with one of our representatives that this offer has not expired.

CHASE BANK USA, N.A. is required by the IRS to provide information about certain amounts that are discharged as a result of a cancellation of a debt on a form 1099C. If CHASE BANK USA, N.A. is required to notify the IRS, you will receive a copy of the form 1099C that is filed with the IRS.

If you have further questions, please contact us at 1-888-899-4332.

You may also make payment by visiting us online at www.ncofinancial.com. Your unique registration code is CC824688-1PKQ5. To receive future notices for the account(s) by e-mail, visit www.ncofinancial.com for details.

This is an attempt to collect a debt. Any information obtained will be used for that purpose. This is a communication from a debt collector.

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT (MAKE SURE ADDRESS SHOWS THROUGH WINDOW)

Our Account #	Current Balance Due
C82468	\$ 1325.77

AMANDA S FOWLER

Payment Amount

\$

Check here if your address or phone number has
changed and provide the new information below.

Make Payment To:



NCO FINANCIAL SYSTEMS

PO BOX 15081

WILMINGTON, DE 19850-5081



NCOP L3
3276

018100C8246800000007300000000001325773